

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1752

Introduced by Senator Migden

February 24, 2006

An act to amend ~~Section 1564~~ *Sections 1540 and 1564* of, and to add ~~Sections 1531.5 and 1564.5~~ *Section 1531.5* to, the Code of Civil Procedure, relating to unclaimed property, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1752, as amended, Migden. Unclaimed property.

(1) Existing law provides for the escheat to the state of abandoned property, including certain deposits, accounts, shares, or other interests with a banking or financial organization, business association, or other holder of personal property. Existing law requires that all money received pursuant to these provisions, including the proceeds from the sale of property, be deposited in the Abandoned Property Account in the Unclaimed Property Fund. This fund is continuously appropriated to the Controller, and existing law requires the Controller to transfer all money in the fund in excess of \$50,000 to the General Fund at the end of each month, as specified. *Existing law prohibits the payment of interest on claims on property in the fund.* Existing law requires the Controller to record the names and last known addresses of each person in connection with the escheated property, as specified, and this record must be available to the public. Existing law, in the Budget Act of 2005, limits the use of money appropriated to the Controller for the purpose of providing general information to the public regarding the unclaimed property program.

This bill would delete the requirement that the Controller transfer all money in the Unclaimed Property Fund in excess of \$50,000 to the General Fund and to record and make available specified names and addresses, as described above. ~~The bill would instead require that the Unclaimed Property Fund be administered by the Treasurer who shall have custody of all money belonging to the fund that is not otherwise held, deposited, or invested, as specified. The bill would require the Treasurer to invest or otherwise administer the Unclaimed Property Fund under the supervision of the Controller, and would permit the Treasurer to elect to invest the money in the fund in the Surplus Money Investment Fund and to revoke that election, as specified. The bill would provide that the costs associated with administering unclaimed property shall be paid by an appropriation in the annual Budget Act from the Unclaimed Property Fund. The bill would provide that all interest earned on money in the fund be deposited in the fund.~~ The bill would require the Controller to conduct outreach programs to owners to inform them about the possible existence of unclaimed property being held by the Controller, as specified. *The bill would require that costs for administering the outreach programs be paid by an appropriation in the annual Budget Act and that these costs not exceed a specified amount. The bill would also require that interest be added on any claim paid to the owners of property for any period on or after January 1, 2007, that the property was on deposit in the Unclaimed Property Fund. The bill would provide that this interest is be calculated according to a specific method, not to exceed 5%.* By requiring General Fund money in a continuously appropriated fund to be spent for a new purpose, this bill would make an appropriation. The bill would require state and local agencies to make information, including confidential information, available to the Controller, if the information could reasonably be used to locate an owner of unclaimed property. By imposing new duties on local agencies this bill would create a state-mandated local program. The bill would provide that if a fee or charge is customarily made for the information requested by the Controller, the Controller shall pay it. *The bill would also make nonsubstantive, technical changes.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1531.5 is added to the Code of Civil
2 Procedure, to read:

3 1531.5. (a) The Controller shall conduct outreach programs
4 to owners to inform them about the possible existence of
5 unclaimed property being held by the Controller's Office and
6 shall establish and maintain procedures to locate the owners of
7 unclaimed property received pursuant to this chapter.

8 (b) A notice to the apparent owner of an unclaimed property
9 account may be issued by the Controller to notify the apparent
10 owner of the existence of unclaimed property and to initiate a
11 claim. Neither a photograph nor an elected official's name shall
12 appear on notices issued under this section.

13 (c) (1) Notwithstanding any other provision of law, upon
14 request of the Controller, any state or local governmental agency
15 shall furnish to the Controller from its records the address or any
16 other identification or location information that could reasonably
17 be used to locate an owner of unclaimed property.

18 (2) If an address or other identification or location information
19 requested by the Controller is confidential under any law or
20 regulation, it shall be furnished to the Controller, provided that
21 neither the Controller nor any officer, agent, or employee of the
22 Controller may use or disclose this information except as may be
23 necessary to locate the owner of unclaimed property.

24 (3) If a fee or charge is customarily made for the information
25 requested by the Controller, the Controller shall pay that
26 customary fee or charge.

27 SEC. 2. Section 1540 of the Code of Civil Procedure is
28 amended to read:

29 1540. (a) Any person, excluding another state, who claims an
30 interest in property paid or delivered to the Controller under this
31 chapter may file a claim to the property or to the net proceeds

1 from its sale. The claim shall be on a form prescribed by the
2 Controller and shall be verified by the claimant.

3 (b) The Controller shall consider each claim within 180 days
4 after it is filed and may hold a hearing and receive evidence. The
5 Controller shall give written notice to the claimant if he or she
6 denies the claim in whole or in part. The notice may be given by
7 mailing it to the address, if any, stated in the claim as the address
8 to which notices are to be sent. If no address is stated in the
9 claim, the notice may be mailed to the address, if any, of the
10 claimant as stated in the claim. No notice of denial need be given
11 if the claim fails to state either an address to which notices are to
12 be sent or an address of the claimant.

13 ~~(c) No interest shall be payable on any claim paid under this~~
14 ~~chapter. The Controller shall add interest at the rate of either 5~~
15 ~~percent or the annual yield rate of the Pooled Money Investment~~
16 ~~Account, whichever is lower, to the amount of any claim paid to~~
17 ~~the owner under this section for the period that the property was~~
18 ~~on deposit in the Unclaimed Property Fund. No interest shall be~~
19 ~~payable for any period prior to January 1, 2007. Any interest~~
20 ~~required to be paid by the state pursuant to this section shall be~~
21 ~~computed as simple interest, and not as compound interest. The~~
22 ~~interest rate shall be established on August 1 of each year. If the~~
23 ~~annual yield of the Pooled Money Investment Account for the~~
24 ~~immediately preceding fiscal year is greater than 5 percent, then~~
25 ~~the Controller shall establish the interest rate at 5 percent. If the~~
26 ~~annual yield of the Pooled Money Investment Account for the~~
27 ~~immediately preceding fiscal year is less than 5 percent, then the~~
28 ~~Controller shall establish the interest rate at the annual yield of~~
29 ~~the Pooled Money Investment Account.~~

30 (d) For the purposes of this section, “owner” means the person
31 who had legal right to the property prior to its escheat, his or her
32 heirs, his or her legal representative, or a public administrator
33 acting pursuant to the authority granted in Sections 7660 and
34 7661 of the Probate Code.

35 (e) Following a public hearing, the Controller shall adopt
36 guidelines and forms that shall provide specific instructions to
37 assist owners in filing claims pursuant to this article.

38 ~~SEC. 2:~~

39 SEC. 3. Section 1564 of the Code of Civil Procedure is
40 amended to read:

1 1564. (a) All money received under this chapter, including
2 the proceeds from the sale of property under Section 1563, shall
3 be deposited in the Unclaimed Property Fund in an account titled
4 “Abandoned Property.” *All interest earned upon money*
5 *deposited in the fund shall be deposited in the fund.*

6 (b) Notwithstanding Section 13340 of the Government Code,
7 all money in the Abandoned Property Account in the Unclaimed
8 Property Fund is hereby continuously appropriated to the
9 Controller, without regard to fiscal years, for expenditure in
10 accordance with law in carrying out and enforcing the provisions
11 of this chapter, including, but not limited to, the following
12 purposes:

13 (1) For payment of claims allowed by the Controller under the
14 provisions of this chapter.

15 (2) For refund, to the person making ~~such~~ the deposit, of
16 amounts, including overpayments, deposited in error in ~~such~~ the
17 fund.

18 (3) For payment of the cost of appraisals incurred by the
19 Controller covering property held in the name of an account in
20 ~~such~~ the fund.

21 (4) For payment of the cost incurred by the Controller for the
22 purchase of lost instrument indemnity bonds, or for payment to
23 the person entitled thereto, for any unpaid lawful charges or costs
24 which arose from holding any specific property or any specific
25 funds which were delivered or paid to the Controller, or which
26 arose from complying with this chapter with respect to ~~such~~ the
27 property or funds.

28 (5) For payment of amounts required to be paid by the state as
29 trustee, bailee, or successor in interest to the preceding owner.

30 (6) For payment of costs incurred by the Controller for the
31 repair, maintenance, and upkeep of property held in the name of
32 an account in ~~such~~ the fund.

33 (7) For payment of costs of official advertising in connection
34 with the sale of property held in the name of an account in ~~such~~
35 the fund.

36 ~~(8) For payment of outreach activities conducted pursuant to~~
37 ~~Section 1531.5.~~

38 ~~(9) For transfer to the Inheritance Tax Fund of the amount of~~
39 any inheritance taxes determined to be due and payable to the

1 state by any claimant with respect to any property claimed by
2 him or her under the provisions of this chapter.

3 (c) ~~Costs~~—*Notwithstanding subdivision (b), costs for*
4 *administering the duties required by this title outreach activities*
5 *pursuant to Section 1531.5 shall be paid by an appropriation in*
6 *the annual Budget Act from the Unclaimed Property Fund. The*
7 *costs of administering outreach activities pursuant to Section*
8 *1531.5 shall be limited to no more than one-half of 1 percent of*
9 *the property received in the Unclaimed Property Fund in the*
10 *prior calendar year.*

11 SEC. 3. ~~Section 1564.5 is added to the Code of Civil~~
12 ~~Procedure, to read:~~

13 ~~1564.5. (a) The Unclaimed Property Fund shall be~~
14 ~~administered by the Treasurer who shall have custody of all~~
15 ~~money belonging to that fund that is not otherwise held,~~
16 ~~deposited, or invested under this title.~~

17 ~~(b) The official bond of the Treasurer shall cover the faithful~~
18 ~~performance of his or her duties as administrator of the~~
19 ~~Unclaimed Property Fund. The Treasurer shall invest or~~
20 ~~otherwise administer the Unclaimed Property Fund under the~~
21 ~~supervision of the Controller.~~

22 ~~(c) The Treasurer may, pursuant to Section 16470 of the~~
23 ~~Government Code, file with the Pooled Money Investment Board~~
24 ~~a notice of election that investment of surplus money in the~~
25 ~~Unclaimed Property Fund shall come under the provisions of the~~
26 ~~Surplus Money Investment Fund, and may revoke that election~~
27 ~~pursuant to Section 16470 of the Government Code. As of the~~
28 ~~effective date of any election with respect to the Unclaimed~~
29 ~~Property Fund filed pursuant to Section 16470 of the~~
30 ~~Government Code, the Treasurer shall transfer the surplus money~~
31 ~~in the Unclaimed Property Fund to the Surplus Money~~
32 ~~Investment Fund, and may transfer all or any portion of the~~
33 ~~investments held by the Unclaimed Property Fund at the date of~~
34 ~~that election, from the Unclaimed Property Fund to the Surplus~~
35 ~~Money Investment Fund. As of the effective date of the~~
36 ~~revocation of any election, the Treasurer shall transfer from the~~
37 ~~Surplus Money Investment Fund to the Unclaimed Property Fund~~
38 ~~the surplus money and earnings attributable to the Unclaimed~~
39 ~~Property Fund.~~

1 SEC. 4. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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